

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	CIVIL NO. 3:24CV351
KENT SEITZ, M.D.,)	
)	
Defendant.)	
_____)	

COMPLAINT

COMES NOW the United States of America, on behalf of its agency, the Small Business Administration, by and through Dena J. King, United States Attorney for the Western District of North Carolina, in an action on a debt owed to the United States, and alleges as follows:

NATURE OF THE ACTION

1. The United States brings this suit to collect on an outstanding debt to the United States Small Business Administration (“SBA”) under a promissory note with Kent Seitz, MD, PA, a professional corporation incorporated in North Carolina, and personally guaranteed by Defendant Kent Seitz, M.D. (who is the sole member of the corporation).

2. The Federal Debt Collection Procedure Act, 28 USC § 3001, *et seq.*, (“FDCPA”) governs this action, as it “provides the exclusive civil procedures for the United States to recover a judgment on a debt.” *Id.* at § 3001(a)(1).

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345, which provides that “the district courts shall have original jurisdiction of all civil actions, suits or proceedings commenced by the United States.”

4. Venue is proper in this district because Defendant resides in Mecklenburg County. *See* 28 U.S.C. § 3004(b)(2) (providing for nationwide enforcement under FDCPA, but transfer to venue in which debtor resides upon request); 28 U.S.C. § 1391(b) (venue proper under general venue statute).

ALLEGATIONS

a) The Parties

5. Plaintiff is the United States appearing on behalf of its federal agency, SBA.

6. Defendant Kent Seitz, M.D. (“Dr. Seitz”) is an individual residing in Matthews, North Carolina. Dr. Seitz is the sole member of and registered agent for Kent Seitz, MD, PA, which is a North Carolina professional corporation operating as a medical practice with its principal place of business in Charlotte, North Carolina (“Business”).

7. Dr. Seitz is not in military service pursuant to the Soldiers’ and Sailors’ Civil Relief Act of 1940, as amended by the Service Members’ Civil Relief Act of 2003.

b) The Debt

8. On or about February 21, 2021, SBA authorized a COVID-19 Economic Injury Disaster Loan (“EIDL”) to the Business for \$150,000.00 plus interest accruing at 3.75%.

9. Thereafter, Dr. Seitz submitted more than one loan modification requests on behalf of the Business, culminating in a total requested amount of \$1,991,400.00. On October 19, 2021, SBA authorized a COVID-19 EIDL loan to the Business in the total amount of \$1,991,400.00 plus interest accruing at 3.75%.

10. Dr. Seitz, as the sole member of the Business, executed a promissory note entitled “2nd Modification of Note” securing the total \$1,991,400.00 loan (the “Note”). A copy of the Note, along with the Loan Authorization and Agreement, are attached as **Exhibit A**.

11. The loan was personally guaranteed by Dr. Seitz (“Guarantee”). A copy of the unconditional Guarantee signed by Dr. Seitz is attached as **Exhibit B**.

12. Dr. Seitz executed an amended security agreement pledging, *inter alia*, “all tangible and intangible personal property” as collateral for the loan (the “Security Agreement”), a copy of which is attached as **Exhibit C**.

13. The loan proceeds were distributed.

14. No payments on the Note have ever been received.

15. The United States has made a demand for the amount owed, but the amount due remains unpaid.¹

COUNT ONE – CLAIM FOR A DEBT AGAINST DR. SEITZ

16. The United States incorporates by reference the allegations set forth in Paragraphs 1 to 15 above as if fully set forth herein.

17. The United States is the holder of the Note and Guarantee.

18. The Business and Defendant are currently in default on the Note and Guarantee.

19. The Note provides that in the event of default, the lender may, *inter alia*, require immediate payment of all amounts due and owing, collect all amounts owing from any borrower or guarantor, file suit and obtain judgment, take possession of any collateral, or sell, lease, or otherwise dispose of any collateral at a public or private sale with or without advertisement. *See Exhibits A, B*.

20. The Guarantee provides that Dr. Seitz unconditionally guaranteed payment of all amounts owing under the Note and must pay all amounts due under the Note. *See Exhibit B*.

¹ On June 19, 2023, the Business filed for bankruptcy under Chapter 11 Subchapter V. *In Re Kent Seitz, MD, PA*, Case No. 23-30391 (W.D.N.C.). As part of a settlement in that proceeding, SBA is authorized to file the instant action against Dr. Seitz without seeking relief from the automatic stay from the Bankruptcy Court. *See id.* at Doc. 101, pp. 2-3.

21. As of June 19, 2023, the Business and Defendant are indebted to the United States in the amount of \$2,119,183.77 inclusive of interest accrued to that date at a 3.75% interest rate. A certificate of indebtedness is attached as **Exhibit D**.

22. The amount set forth in paragraph 22 above is a “debt” to the United States as defined in the FDCPA, *see* 28 U.S.C. § 3002(3)(B), and the United States is entitled to obtain a remedy in connection with this debt, *see* 28 U.S.C. § 3001(a)(2).

PRAYER FOR RELIEF

Wherefore, Plaintiff the United States of America prays for relief as follows:

1. For Judgment against Defendant in the principal amount of \$1,991,400.00 with interest of \$127,783.77 accrued as of June 19, 2023, with interest currently not accruing until January 1, 2029, on which interest will again begin accruing at 3.75%; together with present and future costs and disbursements of this action; and

2. For such other and further relief as this Court deems just and proper.

Respectfully submitted this 28th day of March, 2024.

DENA J. KING
United States Attorney

/s/ **Jonathan M. Warren**
JONATHAN M. WARREN
ASSISTANT UNITED STATES ATTORNEY
N.C. Bar No. 53653
227 West Trade Street
Suite 1650, Carillon Building
Charlotte, NC 28202
Tel: 704-227-0182
Email: Jonathan.Warren@usdoj.gov